

REMARKS

Claims 1-16 are pending in the application. It is believed that this Response to First Office Action and the concurrently transmitted Declaration of Isaac White and Exhibit 1 submitted under 37 C.F.R. §1.131 respond to each and every basis of rejection stated in the Office Action dated February 27, 2004. It is therefore believed that the claims are in condition for allowance, and such action is respectfully requested.

Rejections Under 35 U.S.C. §102(e) and §103(a)

Claim 6 was rejected under 35 U.S.C. §102(e) as being anticipated by Pub. No. 2003/0100219 A1 to Dickens (hereinafter “*Dickens*”). Claims 1-5, 7-10, and 12-16 were rejected under 35 U.S.C. §103(a) as being obvious over *Dickens* in view of U.S. Patent No. 5,692,452 to Nepovim (hereinafter “*Nepovim*”). Claim 11 was rejected under 35 U.S.C. §103(a) as being obvious over *Dickens* in view of Nepovim further in view of U.S. Patent No. 391,185 to Parker (hereinafter “*Parker*”). The applicant submits that *Dickens* does not qualify as prior art under 35 U.S.C. §102(e) and consequently under 35 U.S.C. §103(a) because the present invention was conceived prior to the reference date of *Dickens* and because the inventor worked diligently with a patent attorney from a time prior to the reference date of *Dickens* until constructively reducing the invention to practice upon filing the present application.

The reference date of *Dickens* is established by its filing date of November 26, 2001. The Declaration of Isaac White under 37 C.F.R. §1.131 establishes the conception of the invention defined by the claims in the present application in the United States prior to November 26, 2001. Further, attached as Exhibit 1, is a Invention Disclosure Form

describing an exemplary embodiment of the present invention, which was faxed on September 6, 2001. This date can be seen stamped onto the top left corner of each page. Together, the Declaration and Exhibit 1 establish conception of the present invention prior to the filing date of *Dickens*.

The present invention was constructively reduced to practice on the filing date of the present application, December 26, 2001. The Declaration of Isaac White under 37 C.F.R. §1.131 shows that Isaac White was diligently working with a patent attorney for the purposes of reducing the invention to practice for the period of time just prior to November 26, 2001 until the present application was filed on December 26, 2001. Therefore, because the present invention was conceived prior to the filing date of *Dickens*, followed by due diligence from a time just prior to the filing date of *Dickens* until constructively reduced to practice, the applicant submits that *Dickens* does not qualify as prior art under 35 U.S.C. §102(e). Accordingly, *Dickens* also does not qualify as prior art under 35 U.S.C. §103(a).

The applicant also submits that *Dickens* does not teach all the recitations of the claims. Because *Dickens* is not prior art, and because *Dickens* does not teach, suggest, or describe all the recitations of the claims, the applicant submits that the rejections of claims 1-16 should be withdrawn.

CONCLUSION

The foregoing Response is submitted as a full and complete response to the First Official Office Action mailed February 27, 2004. The applicant respectfully submits that the foregoing Response and the Declaration of Isaac White under 37 C.F.R. §1.131 with Exhibit 1 place this application in condition for allowance. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call Mike Baldauff at (404) 954-5043.

Respectfully submitted,

MERCHANT & GOULD, LLC

By:   
Joseph M. Bennett-Paris  
Reg. No. 47,226

Date: May 26, 2004

Merchant & Gould  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
Telephone: 404.954.5100

